MULTIMEDIA UNIVERSITY

STUDENT ID NO

MULTIMEDIA UNIVERSITY

FINAL EXAMINATION

TRIMESTER 2, 2022/2023

FULB 2612 – LABOUR LAW

(All Sections/Groups)

14 JULY 2023
Reading Time: 9.00am – 9.15am
(15 Minutes)
Answering Time: 9.15am – 12.15pm
(3 Hours)

INSTRUCTIONS TO STUDENTS

1. Students will have **fifteen minutes** during which they may read the paper and make rough notes ONLY in their question paper. Students then have the remaining **THREE HOURS** in which to answer the questions.

2. This Question paper consists of 4 Pages and 5 Questions only.

3. It is **COMPULSORY** to answer **ALL** questions from Section A and answer **ONE (1)** question in Section B and the distribution of the marks for each question is given.

4. Students are allowed to bring into Examination Hall CLEAN and ORIGINAL copy of:
   i. Employment Act 1955 (Act 265);
   ii. Industrial Relations Act 1967 (Act 177);
   iii. Trade Union Act 1959 (Act 262); and
   iv. Employees' Social Security Act 1969 (Act 4)

5. Please write all your answers in the Answer Booklet provided.

SECTION A

Instruction: Section A has THREE questions. It is COMPULSORY to answer ALL questions in this Section.

QUESTION 1

Discuss the provisions and regulations related to wages, advances, deductions, payment modes, and priority under the Employment Act 1955 in Malaysia. In your answer, address the following aspects:

a) Wage Period: Explain the requirement for wage payment frequency and the timeframe within which employers must pay wages according to the Act.

(3 marks)

b) Wage Advances: Discuss the circumstances under which wage advances are allowed, including the maximum amount permitted and the need for permission from the Director-General of Labour for certain purposes and amounts.

(3 marks)

c) Wage Deductions: Describe the circumstances in which employers can deduct wages, the limitations on the total amount of monthly deductions, and the requirement to inform the Director-General of Labour in specific cases.

(3 marks)

d) Involvement of Third Parties: Explain the situations where third parties may be involved in wage deductions, such as trade unions or cooperatives, and the necessary permissions and conditions for such deductions.

(3 marks)

e) Non-payment of Wages: Outline the exceptions to the requirement of wage payment, including instances when employees are in custody, prison, or attending court hearings, and whether witnesses for the employer are exempted.

(3 marks)

f) Payment Mode: Discuss the prescribed payment mode for employers to remit wages to employees, highlighting any provisions for alternative payment methods.

(3 marks)

g) Wage Priority: Explain the priority of unpaid wages over other debts and the limitations on the amount of wages employees can claim.

(3 marks)

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h) Non-payment of Wages and Other Matters: Analyze the rights of employees earning RM2,000 to RM5,000 per month in claiming against their employers at the Labour Department for unpaid wages and other monetary benefits.

(4 marks)

Support your answer with relevant provisions of the Employment Act 1955 and any relevant legal cases or precedents.

(Total:25 marks)

QUESTION 2

Discuss the concepts of employer-employee relationships, contract of service, and contract for service in the context of employment law. In your answer, address the following aspects:

a) Define the terms "employer" and "employee" and explain their significance in determining the legal rights and responsibilities of the parties involved.

(4 marks)

b) Differentiate between a contract of service and a contract for service. Provide examples and discuss the key characteristics of each type of contract.

(4 marks)

c) Explore the rights and responsibilities of employers and employees in the employment relationship. Discuss the obligations and entitlements that arise from the employer-employee relationship.

(4 marks)

d) Analyze the control test as a method for determining whether an individual is considered an employee or an independent contractor. Explain the factors and criteria used to assess control in the employment relationship.

(4 marks)

e) Discuss the organization test as an alternative approach for determining the employment status of an individual. Explain the factors and criteria used to assess the level of integration of the individual into the employer's organization.

(4 marks)

f) Describe the multiple-factor tests used in employment law to assess the employment status of an individual. Discuss the various factors considered in these tests, such as the degree of control, integration, economic dependency, and mutuality of obligations.

(5 marks)

Continued...

Support your answer with relevant legal provisions, precedents, and case examples from employment law in Malaysia.

(Total:25 marks)

QUESTION 3

Ali was charged in the Magistrate Court for stealing goods at his employer's premises. At the same time, his employer conducted a domestic enquiry and the enquiry panel suggested to the management that Ali be dismissed. The company dismissed Ali. Ali however was acquitted by the Magistrate Court at the end of the prosecution case when the prosecution failed to prove a prima facie case. Ali applied for his job back from his employer on reason that he had been proven innocent by the Magistrate Court. Ali seeks your advice.

(Total:25 marks)

SECTION B

Instruction: This section has TWO questions. Please answer only ONE question

QUESTION 4A

Omar works at Transact Sdn. Bhd. As a marketing officer with a salary of RM4,500.00 a month. A trade union was established in the company and Omar was exposed to the President of the Trade Union. As President, Omar has recruited many members of the company as a union member.

Omar is also working to demand a pay increase on behalf of all company employees and seek the recognition of his employer. Omar has always taken leave to attend a national union meeting at the national level. Transact Sdn. Bhd. Do not like Omar's actions. The company recognizes the trade union led by Omar on the grounds that not many employees are members of the union. The reason was denied by Omar with 51% of employees who had been involved in the trade union.

The company has also withdrawn the facilities provided to Omar such as cars and entertainment allowances. Omar was also advised by the Company Manager, Mr. Lee, to be inactive in trade union activities. The reason is Omar's involvement in the trade union that has affected Omar's work performance. Omar was arrested by the police for being involved in a mass demonstration in Klang with trade unions from various industries to support other trade unions.

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The company dislikes Omar's involvement in the trade union and has converted the position of Omar to a lower position and his salary has been deducted by RM500.00 a month on the grounds that he often takes leave. Advise Omar.

(Total: 25 marks)

QUESTION 4B

Encik Fadzil bin Ahmad and 34 others were employees of Budiman Sdn.Bhd., a small medium food company. They were unhappy with the discontinuation of a special allowance. They argued that legally it was wrong for the employer to stop the payments of the special allowance upon the implementation of a collective agreement (CA) because the provisions pertaining to the special allowance as provided for under the original contract of service between the employees and the company continued to be in force notwithstanding the collective agreement. Also, Encik Fadzil and his colleagues refused to obey a 'work rule' that required them to wear safety shoes. They argued that their work was not dangerous as their work only involved food preparation. Discuss.

(Total: 25 marks)

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